

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

No. C 14-0974 NC (PR)

MAURICE McGEE,

Petitioner,

**ORDER OF DISMISSAL**

v.

ELVIN VALENZUELA, Warden,

Respondent.

United States District Court  
For the Northern District of California

On March 3, 2014, Petitioner, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Clerk sent Petitioner a notice that he had not paid the \$5.00 filing fee or filed an application to proceed in forma pauperis (“IFP”). Petitioner filed an IFP application on March 27, 2014. However, the attached Certificate of Funds showed that he has sufficient funds to pay the \$5.00 filing fee for a habeas action. The Court, by order issued May 13, 2014, therefore denied the IFP application and directed Petitioner to pay the \$5.00 filing fee on or before June 30, 2014.

On July 2, 2014, having still not received the filing fee, the Court granted Petitioner an additional twenty-eight days to submit payment. Petitioner was advised that failure to pay the filing fee within the twenty-eight-day deadline would result in dismissal of this action without further notice.

More than twenty-eight days have passed, and Petitioner has not paid the \$5.00 filing fee or otherwise communicated with the Court. Accordingly, this habeas action is DISMISSED without prejudice for failure to respond to the Court's order and for failure to prosecute under Federal Rule of Civil Procedure 41(b). Because this dismissal is without

1 prejudice, Petitioner may move to reopen the action. Any motion to reopen must contain full  
2 payment of the \$5.00 filing fee.

3 The Clerk is directed to enter judgment in favor of Respondent and close the file.

4 IT IS SO ORDERED.

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6 DATED: August 12, 2014

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8 NATHANAEL M. COUSINS  
9 United States Magistrate Judge  
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